

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DANIEL HOUDE,

Plaintiff,

VS.

ROBERT TURGEON, STEPHEN GUNNERSON,

KEVIN JOHANSON, MATTHEW D'ANDREA,

BRIAN HALLORAN, THOMAS DUFFY,

SEAN MCCANN and CITY OF WORCESTER

Defendants,

CIVIL ACTION

NO. 05-40075-FDS

FINDINGS AND ORDER

September 6, 2006

HILLMAN, M.J.

Nature of the Proceeding

By Order of Reference dated July 31, 2006, this case has been referred to me for disposition of Plaintiff, Daniel Houdes' [sic], Motion To Compel Production of Documents (Docket No. 27).

Background

Daniel Houde has filed a complaint against Worcester Police Officers Robert Turgeon, Stephen Gunnerson, Kevin Johanson, Matthew D'Andrea, Brian Halloran, Thomas Duffy, and Sean McCann and the City of Worcester alleging claims under 18 U.S.C. §1983 for violation of his constitutional rights as the result of his alleged false arrest and the defendant officers' alleged use of excessive force against him, and various state law tort claims.

Discussion

The plaintiff seeks to compel the production of the complete personnel files of the defendant officers and all complaints, judgments, and settlement agreements in civil rights lawsuits filed against the city since 2001. The defendants respond that these requests are untimely because the plaintiff's original Rule 34 request did not seek these documents. A review of the plaintiff's Rule 34 request supports the defendants' argument.

However, in an effort to avoid unnecessary delay, this court held a discovery conference/hearing on the above requests in order to determine whether the discovery can be obtained without the benefit of further filing and expense. After careful review of the parties filings and oral argument, I make the following Order.

Conclusion

After hearing on Plaintiff's Motion To Compel Production of Documents and Defendants' Opposition to the same, IT IS HEREBY ORDERED that Defendant, City of Worcester, produce the following documents:

1. All records pertaining to evaluations and commendations contained within the Defendant's Officers' personnel files;
2. All training materials pertaining to use of force, including In-Service training material, which the Defendant Officers were provided in the course of their training;
3. All records maintained by the Internal Affairs Division pertaining to complaints filed against each of the Defendant Officers, including the investigation and disposition of each complaint. However, identifying information pertaining to each complainant, witness, and/or interviewee shall be redacted pending further order of the Court; and

4. All complaints filed against the City of Worcester, by and through its police officers, alleging excessive force, that were filed in state or federal court from 2001 to the date of the filing of Plaintiff's Complaint.

Documents produced in response to paragraphs 1 and 3 of this ORDER shall be kept confidential by the parties and their attorneys, and may only be used as part of this litigation. Said documents shall be returned and/or destroyed at the conclusion of the lawsuit.

/s/Timothy S. Hillman
TIMOTHY S. HILLMAN
MAGISTRATE JUDGE